

October 27, 2020 - Presented for 1<sup>st</sup> reading.

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1 **2020-047 (1<sup>st</sup> READING): AN ORDINANCE OF THE CITY OF MYRTLE BEACH, SOUTH**  
2 **CAROLINA PROVIDING FOR THE CREATION OF A PARKING SYSTEM; AND OTHER MATTERS**  
3 **RELATED THERETO.**

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4 **Staff/Purpose:** CFO / to establish a Parking System comprising on-street and off-street parking  
5 & to provide for the uses of funds generated by the System.  
6

7 **Brief:**

- 8 • Parking facilities previously have been under the management of the Downtown  
9 Redevelopment Corporation (DRC). Parking revenues have paid for the operation of the  
10 parking facilities and have leveraged the \$10 million loan pool the City has used to spur  
11 redevelopment in target areas of the City since 2015.
- 12 • Recently, the City has absorbed many of the redevelopment functions of DRC, which is  
13 being reconstituted as a board primarily to function as Managing Partner of properties  
14 being redeveloped w/ the benefit of certain tax credits.
- 15 • The creation of a parking system allows for the use of parking revenues to pay operating  
16 expenses of the system and to pledge net revenues for debt repayment.
- 17 • W/ the amendment of the Oceanfront Redevelopment Area to include the Arts &  
18 Innovation District & other strategic redevelopment areas, the parking system creation  
19 allows for the re-establishment of the loan pool to provide interim financing for  
20 Transitional Properties & other public improvements under the amended Oceanfront  
21 Redevelopment Plan.  
22

23 **Issues:**

- 24 • The net revenues of the parking system will be used to pay interest on amounts  
25 outstanding in the loan pool. The pool will have a senior lien on the net parking  
26 revenues, a structure that is similar to that of the existing loan pool.
- 27 • Creation of the parking system will segregate parking activities in a separate enterprise  
28 fund to facilitate the accounting and review of parking system financials for the City's  
29 use as well as that of lenders in the pool.  
30

31 **Public Notification:** Normal advertisement of ordinance for first reading.  
32

33 **Alternatives:** Alternative would be not to create the system, which could complicate potential  
34 revenue pledge and the accounting for parking funds.  
35

36 **Financial Impact:**

- 37 • The financial impact of operating City parking within a statutory System is negligible.
- 38 • In itself, the creation of the System does not impose financial obligations or  
39 commitments upon the City.
- 40 • As the parking system was previously accounted for in DRC's budget, the inclusion in  
41 the City's budget creates a one-time increase in a comparison of the FY2021 Annual  
42 Budget vs. FY 2020.  
43

44 **Manager's Recommendation:**

- 45 • I recommend 1<sup>st</sup> reading (10/27/2020).  
46

47 **Attachment(s):** Proposed ordinance.

1 CITY OF MYRTLE BEACH )  
2 COUNTY OF HORRY )  
3 STATE OF SOUTH CAROLINA )

4 AN ORDINANCE OF THE CITY OF MYRTLE  
5 BEACH, SOUTH CAROLINA PROVIDING FOR  
6 THE CREATION OF A PARKING SYSTEM; AND  
7 OTHER MATTERS RELATED THERETO.

8 NOW THEREFORE, be it ordained by the City Council of the City of Myrtle Beach (the  
9 "City Council"), the governing body of the City of Myrtle Beach, South Carolina (the "City"),  
10 as follows:

11 **SECTION 1. Findings of Fact.** The City Council hereby finds and determines that the  
12 following findings of fact are true, accurate, and correct in every respect:

13 (a) The City is a municipal corporation of the State of South Carolina (the "State")  
14 located in Horry County, South Carolina, and as such possesses all general powers granted by  
15 the Constitution and statutes of the State to such public entities.

16 (b) Pursuant to the powers vested in it pursuant to the Constitution and laws of the  
17 State of South Carolina, the City owns and operates certain motor vehicular parking facilities  
18 of various sorts, including parking lots, buildings and ramps (collectively, the "**Off-Street**  
19 **Parking Facilities**," as such term is more particularly defined herein), as well as a system of  
20 parking meters, curb line or other, regulating the parking of motor vehicles on any street within  
21 the corporate limits of the City, requiring a payment of charges for the right to make use of  
22 any portion of any street set apart for motor vehicle parking (collectively, the "**On-Street**  
23 **Parking Facilities**," as such term is more particularly defined herein).

24 (c) Section 5-29-40, Code of Laws of South Carolina 1976, as amended, provides that  
25 any municipality shall be permitted to make provision for the contribution, establishment  
26 maintenance and improvement of Off-Street Parking Facilities and to finance or refinance the  
27 cost of such construction, establishment, maintenance and improvement through the issuance  
28 of bonds pursuant to Sections 6-21-10 through 6-21-570, Code of Laws of South Carolina 1976,  
29 as amended, and as the same may be hereafter amended (the "**Revenue Bond Act**") and  
30 Sections 6-17-10 through 6-17-320, Code of Laws of South Carolina 1976, as amended, and as  
31 the same may hereafter be amended (the "**Refunding Revenue Bond Act**").

32 (d) Section 6-21-40 of the Revenue Bond Act defines "system" for purposes of the  
33 Revenue Bond Act to include all of the projects and undertakings referred to in Section 6-21-  
34 50 of the Revenue Bond Act. The projects and undertakings set forth in Section 6-21-50 of the  
35 Revenue Bond Act include the purchase and construction of parking buildings, parking lots and  
36 other public buildings and structures in furtherance thereof.

37 (e) The City has determined to designate the Off-Street Parking Facilities and the  
38 On-Street Parking Facilities (collectively, the "**Facilities**," as such term is more particularly  
39 defined herein), as a "system" within the meaning of such term in Section 6-21-40 of the  
40 Revenue Bond Act (such system shall be referred to herein as the "**Parking System**").

1 (f) By Ordinance No. 2008-78, enacted October 21, 2008 (“**Ordinance 2008-78**”),  
2 the City Council approved a redevelopment plan (the “**Original Redevelopment Plan**”) for the  
3 Oceanfront Redevelopment Project Area (the “**Original Redevelopment Project Area**”). By  
4 Ordinance 2020-46 enacted November 10, 2020, the Original Redevelopment Plan was amended  
5 to add additional area to the redevelopment project area described therein and to add  
6 additional redevelopment projects thereto. The Original Redevelopment Plan, as amended  
7 pursuant to the 2020 Amendment, being referred to herein as the “**Redevelopment Plan**.” The  
8 Redevelopment Plan constitutes a “redevelopment plan” as defined in “Tax Increment  
9 Financing Law” for municipalities, Section 31-6-10, et seq. Code of Laws of South Carolina 1976,  
10 as amended (the “**Tax Increment Finance Law**”).  
11

12 (g) Section 31-6-110 of the Tax Increment Financing Law provides, in part, that if  
13 obligations are issued under the Tax Increment Financing Law to finance the extension or  
14 expansion of a system as defined in Section 6-21-40 of the Revenue Bond Act in a redevelopment  
15 project area created under the Tax Increment Financing Law, all or a portion of the revenues  
16 of the system, whether or not located entirely within the redevelopment project area, including  
17 the revenues of any redevelopment project therein, may be pledged to secure the obligations  
18 issued under the Tax Increment Financing Law.  
19

20 (h) The Redevelopment Plan includes within the redevelopment projects described  
21 therein parking improvements to include the construction of four parking facilities expected to  
22 be located within the City at 4<sup>th</sup> Avenue, 7<sup>th</sup> Avenue, Withers Drive and Joe White, each of  
23 which will constitute an extension or expansion of the Parking System.  
24

25 (i) The Redevelopment Plan contemplates the issuance of not exceeding \$89 million  
26 of bonds or other obligations under the Tax Increment Financing Law (the “**Tax Increment**  
27 **Obligations**”) to finance certain of the redevelopment projects described therein.  
28

29 (j) The City desires to make provision for the Tax Increment Obligations to be  
30 additionally payable from and secured by a pledge of and lien on the revenues of the Facilities  
31 which remain after the payment of the costs of operation and maintenance of the Facilities  
32 (the “**Net Revenues**,” as such term is more particularly defined herein).  
33

34 (k) The City Council has determined that the designation of the Parking System as a  
35 “system” under the Revenue Bond Act is in the best interest of the City and its citizens.  
36

37 **SECTION 2. Certain Definitions.**  
38

39 Unless the context shall clearly indicate some other meaning, the terms defined in this  
40 Section shall, for all purposes of this Ordinance and of any ordinance, resolution, certificate,  
41 opinion, instrument or other document herein mentioned, have the meanings herein specified.  
42 Definitions shall be equally applicable to both the singular and plural forms of any of the terms  
43 herein defined and *vice versa*. The term:  
44

45 “**Bonds**” means bonds or other obligations issued from time to time by the City under  
46 the Revenue Bond Act or the Refunding Revenue Bond Act to finance or refinance extensions or  
47 expansions to the Parking System.  
48

49 “**Expenses of Operating and Maintaining the Facilities**” means the current expenses,  
50 paid or accrued, of operation and administration, maintenance and current repair of the

1 Facilities, as calculated in accordance with generally accepted accounting practices, and  
2 includes, without limiting the generality of the foregoing, administrative charges, salaries,  
3 wages, employee benefits, costs of materials and supplies, costs of routine repairs, renewals,  
4 replacements and alterations occurring in the usual course of business, properly allocable share  
5 of City administrative and overhead expenses, contractual payments to any entity or person  
6 providing any service to the Facilities, costs of billings and collections, costs of any audit of the  
7 Facilities, the premiums for all insurance required with respect to the Facilities or the  
8 accumulation of appropriate reserves for self-insurance, taxes, if any, and amounts payable by  
9 way of arbitrage rebate; provided, however, that Expenses of Operating and Maintaining the  
10 Facilities will be calculated for purposes of determining Net Revenues net of any application of  
11 Parking Fines or other moneys lawfully appropriated to the payment thereof. Notwithstanding  
12 the foregoing, Expenses of Operating and Maintaining the Facilities do not include (i) the  
13 payment of interest on Tax Increment Obligations, Bonds or other Facilities-related  
14 indebtedness, (ii) any capital outlay, (iii) any allowance for depreciation or renewals or  
15 replacements of capital assets of the Facilities, (iv) any amounts deemed to be payments in  
16 lieu of taxes or other transfers to the City's general fund, (v) any pension-related and other  
17 post-employment benefit-related expenses (other than such amounts actually paid) of the  
18 Facilities, (vi) any payment or amortization of financing expenses, underwriting discounts, call  
19 premiums, losses on the extinguishment of debt due to refinancing of the same, and other  
20 related and non-recurring expenses resulting from the issuance or refinancing of long-term  
21 indebtedness, or (vii) any losses on the sale or other disposition of investments or fixed or  
22 capital assets.

23  
24 **"Facilities"** means the present Off-Street Parking Facilities and On-Street Parking  
25 Facilities.

26  
27 **"Net Revenues"** means the Revenues after deducting the Expenses of Operating and  
28 Maintaining the Facilities.

29  
30 **"Off-Street Parking Facilities"** means the existing off-street motor vehicular parking  
31 facilities of all sorts of the City, including, but not limited to, garages, parking lots, buildings  
32 and ramps, including the parking facilities to be constructed with the proceeds of Tax Increment  
33 Obligations or Bonds, and all other Off-Street Parking facilities as may from time to time be  
34 constructed or purchased by the City, and which the City Council declares by ordinance to be  
35 part of the Off-Street Parking facilities, and will include any system which is combined with or  
36 consolidated into the Facilities pursuant to law; but excluding any Facilities which are  
37 abandoned, sold, traded or leased as permitted under this Ordinance; provided, further, that  
38 for the avoidance of doubt, the Off-Street Parking Facilities do not include any improvements  
39 or other structures ("Structures") which may be attached adjacent to or above Off-Street  
40 Parking Facilities which are not used for the primary purpose of parking vehicles or, if such  
41 Structures are to be so used, are determined by ordinance of the City Council not to be part of  
42 the Facilities, and do not include any air rights or other rights which may be granted by the  
43 City to develop or construct any Structures. Off-Street Parking Facilities shall not include the  
44 off-street motor vehicular parking facilities located on the former Myrtle Beach Airforce Base  
45 unless City Council by ordinance otherwise determines.

46  
47 **"On-Street Parking Facilities"** means any system of parking meters, curb-line or other,  
48 of the City, regulating the parking of motor vehicles on any street within the corporate limits  
49 of the City requiring the payment of a charge for the right to make use of any portion of any  
50 street set apart for motor vehicle parking, as the same may from time to time exist.

1  
2       **“Parking Fines”** means all revenues and fees received by the City by reason of the  
3 assessment and collection of any and all citations from non-moving traffic violations.  
4

5       **“Parking System”** has the meaning given such term in Section 3 hereof.  
6

7       **“Permitted Investments”** means (a) any one or more of the investments now or  
8 hereafter permitted by Section 6-5-10, Code of Laws of South Carolina 1976, as amended and  
9 in effect from time to time, or any authorization relating to the investment of funds under the  
10 Ordinance; and (b) the South Carolina Pooled Investment Fund or similar State-administered  
11 pool investment fund.  
12

13       **“Revenues”** means all rates, fees, charges or other income or earnings, exclusive of  
14 Parking Fines, received by the City from the management and operation of the Facilities, any  
15 interest earnings and other earnings on investments, as such earnings on investments are  
16 computed in accordance with generally accepted accounting principles and, in the event all or  
17 a portion of the Off-Street Parking Facilities are leased or licensed for fair and reasonable  
18 consideration, also includes the rentals, management fees or other payments to be received by  
19 the City from such leases or licenses of such Off-Street Parking Facilities, but excludes the  
20 proceeds of any grants or debt, contributions in aid of construction and gains or losses on the  
21 extinguishment of debt.  
22

23       **“Tax Increment Bonds”** has the meaning given such term in Section 1(i) hereof.  
24

25       **SECTION 3. Establishment of Parking System; Governance.** The City Council hereby  
26 establishes the Facilities as a “system” within the meaning of such term in Section 6-21-40 of  
27 the Revenue Bond Act, referred to in this Ordinance as the “Parking System,” to carry out the  
28 purposes, functions, and responsibilities set forth herein and authorized by the Constitution  
29 and laws of the State. The Parking System shall be governed by and under the control of the  
30 City Council.  
31

32       **SECTION 4. Disposition of Revenues.** The Revenues of the Parking System shall be  
33 applied at the times, in the amounts and for the purposes as provided or permitted by this  
34 Ordinance, and in the following order of priority:  
35

36       First, provision shall be made for the payment of Expenses of Operating and Maintaining  
37 the Facilities;  
38

39       Second, provision shall be made for the payment of the principal of and interest on any  
40 Tax Increment Obligations or Bonds then outstanding, and there shall be transferred into the  
41 debt service funds therefor, the amounts required by the Ordinance providing for the issuance  
42 thereof;  
43

44       Third, there shall be transferred into the respective debt service reserve funds, if  
45 established, the amounts (including any payments required under the terms of any surety bond,  
46 insurance policy or letter of credit applicable thereto) required by the Ordinance providing for  
47 the issuance of Tax Increment Obligations or Bonds;  
48

1 Fourth, provision shall be made for payment of interest on amounts advanced by the  
2 provider of any surety bond, line of credit, insurance policy or letter of credit provided by the  
3 City to enhance the credit of Tax Increment Obligations or Bonds;  
4

5 Fifth, provision shall be made for the payment of any junior lien bonds or obligations or  
6 meeting any other obligations of the City which are or which may become charges, liens of  
7 encumbrances upon the Revenues;  
8

9 Sixth, the remaining Revenues may be applied for any other lawful purpose.  
10

11 **SECTION 5. Rates and Charges.** The City Council, by ordinance, may place into effect  
12 and revise from time to time a schedule of rates and charges, including formula rates or other  
13 alternative ratemaking mechanisms, for the Off-Street Parking Facilities, and the use thereof  
14 by its customers (collectively, the “*Parking Charges*”) and, in accordance with State law, to  
15 impose Parking Charges upon those utilizing the Off-Street Parking Facilities. A schedule of all  
16 such rates, deposit and charges in effect will be maintained and on file in the offices of the  
17 City and made available upon request.  
18

19 **SECTION 6. Investment of Funds.** Moneys held for the credit of any debt service  
20 funds, debt service reserve funds or any other funds or accounts created with respect to the  
21 Parking Facilities may be invested, to the fullest extent practicable and reasonable, in  
22 Permitted Investments which shall mature prior to the respective dates when such moneys held  
23 to the credit of such fund will be required for the purpose intended.  
24

25 **SECTION 7. To Pay Principal, Premium, and Interest on the Tax Increment**  
26 **Obligations and Bonds.** The City covenants and agrees to punctually pay, or cause to be paid,  
27 out of the Net Revenues pledged to such payment, the principal of, redemption premium, if  
28 any, and the interest on each and every Tax Increment Obligation and Bond secured thereby,  
29 at the place, on the dates and in the manner provided in the Ordinances providing for the  
30 issuance thereof.  
31

32 **SECTION 8. Operation of Facilities.** The City covenants and agrees it shall, subject  
33 to the provisions of Section 10 hereof, at all times operate the Off-Street Parking Facilities  
34 properly and in an efficient and economical manner and will maintain, preserve and keep the  
35 same with the appurtenances and every part and parcel thereof in good repair, working order  
36 and condition, and shall from time to time make all necessary repairs and proper repairs and  
37 replacements so that at all times the operation of the Off-Street Parking Facilities may be  
38 properly and advantageously conducted.  
39

40 **SECTION 9. Parking Fines and Appropriated Moneys.** The City Council may, in its  
41 discretion, appropriate and use Parking Fines and other lawfully appropriated monies for  
42 payment of any Expenses of Operating and Maintaining the Facilities; provided, however, that  
43 the City does not covenant to impose or collect Parking Fines or to maintain in effect any  
44 ordinance, resolution, rule or regulation making it a criminal offense to violate parking  
45 regulations; and provided, further, that the City reserves the right to apply Parking Fines for  
46 such other purposes as it may deem necessary in the reasonable exercise of its police powers.  
47 Parking Fines and other lawfully appropriated moneys, as received and appropriated, may be  
48 deposited, held and applied to the Expenses of Operating and Maintaining the Facilities or for  
49 such other permitted purposes.  
50

1           **SECTION 10. Removal of Component or Enterprise from the Off-Street Parking**  
2 **Facilities.** The City in its discretion may at any time remove, exchange or otherwise dispose of  
3 an entire component or enterprise from the Off-Street Parking Facilities.  
4

5           **SECTION 11. Rules and Regulations.** Subject to the laws of the State and any other  
6 provisions governing or regulating municipal utilities, the City Council may make such  
7 reasonable rules, regulations, policies, resolutions, ordinances and other governance  
8 proclamations as necessary to administer, operate, maintain, manage, regulate and do all other  
9 things necessary for the Off-Street Parking Facilities.  
10

11           **SECTION 12. Contracts.** Subject to final approval by the City Council, the City  
12 Manager, acting on behalf of the City and the Parking System, may negotiate contracts,  
13 agreements, memoranda and other binding legal documents regarding (i) the acquisition of real  
14 and personal property assets, including by purchase, lease or other means, as necessary for the  
15 efficient operation of the Off-Street Parking Facilities, (ii) the management or operation of the  
16 Off-Street Parking Facilities, including professional contracts for technical and engineering  
17 services, and (iii) any and all other actions, activities and functions necessary and convenient  
18 to the proper operation of the Off-Street Parking Facilities.  
19

20           **SECTION 13. Designated Authority.** As necessary and convenient and subject to proper  
21 budgetary approval, the City Manager may procure, hire and engage any and all consultants,  
22 engineers, attorneys and advisors as necessary for the operation and management of the Off-  
23 Street Parking Facilities.  
24

25           **SECTION 14. Operation as Enterprise; Keeping Records.** The Parking System shall be  
26 accounted for as an enterprise of the City separate and distinct from the City's general  
27 operations. The City shall install and thereafter maintain proper books, records, and accounts  
28 of the Parking System, separate and distinct from all other records and accounts of the City, in  
29 which complete and correct entries shall be made and maintained of the revenues and  
30 expenditures of the Parking System. The Parking System shall be operated on the same fiscal  
31 year basis of the City, currently beginning on July 1 of each calendar year and ending on the  
32 subsequent June 30.  
33

34           **SECTION 15. Amendments or Supplements to this Ordinance.** This Ordinance may be  
35 amended from time to time in the discretion of City Council subject, to the extent applicable,  
36 to the provisions of any Ordinance providing for the issuance of Tax Increment Obligations or  
37 Bonds.  
38

39           **SECTION 16. Further Action Authorized.** The Mayor, City Manager and Chief Financial  
40 Officer, and other necessary City officials and staff, are hereby authorized and directed to  
41 create such accounts, execute such documents and instruments, and take such additional action  
42 as is necessary and convenient to carry out the purposes of this Ordinance.  
43

44           **SECTION 17. Effective Date.** This Ordinance shall be effective as of the date of its  
45 enactment.  
46  
47  
48  
49

1           **ENACTED** by the City Council of the City of Myrtle Beach, South Carolina, this \_\_\_\_ day  
2 of \_\_\_\_\_, 2020.  
3

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk, City Council of the City  
Of Myrtle Beach, South Carolina

4  
5  
6 Date of First Reading:       October 27, 2020  
7 Date of Second Reading:     \_\_\_\_\_, 2020